

black, one white. Each alleged that the owner² of Parkmerced had discriminated against non-whites on the basis of race in the rental of apartments within the complex in violation of § 804 of the Act.

HUD, pursuant to § 810 (c) of the Act,³ notified the appropriate California state agency of the complaints and the state agency, for lack of adequate resources to handle the complaints, referred the charge back to HUD. Since HUD failed to secure voluntary compliance within 30 days, petitioners brought this action in the District Court under § 810 (d) of the Act.⁴

² The owner at the time the suit was started was Metropolitan Life Ins. Co. After the suit was commenced, Parkmerced Corp. acquired the apartment complex from Metropolitan and it was joined as a defendant.

³ Sec. 810 (c) provides:

"Wherever a State or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this subchapter, the Secretary shall notify the appropriate State or local agency of any complaint filed under this subchapter which appears to constitute a violation of such State or local fair housing law, and the Secretary shall take no further action with respect to such complaint if the appropriate State or local law enforcement official has, within thirty days from the date the alleged offense has been brought to his attention, commenced proceedings in the matter, or, having done so, carries forward such proceedings with reasonable promptness. In no event shall the Secretary take further action unless he certifies that in his judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interests of justice require such action.

⁴ Sec. 810 (d) provides in relevant part:

"If within thirty days after a complaint is filed with the Secretary or within thirty days after expiration of any period of reference under subsection (c) of this section, the Secretary has been unable to obtain voluntary compliance with this subchapter, the person aggrieved may, within thirty days thereafter, commence a civil action in any appropriate United States district court, against the

The complaint alleged that the owner had discriminated against non-white rental applicants in numerous ways, *s. g.*, making it known to them that they would not be welcome at Parkmerced, manipulating the waiting list for apartments, delaying action on their applications, using discriminatory acceptance standards, and the like.

They—the two tenants—claimed they had been injured in that (1) they had lost the social benefits of living in an integrated community; (2) they had missed business and professional advantages which would have accrued if they had lived with members of minority groups; (3) they had suffered embarrassment and economic damage in social, business, and professional activities from being “stigmatized” as residents of a “white ghetto.”*

The District Court did not reach the merits but only held that petitioners were not within the class of persons entitled to sue under the Act. 322 F. Supp. 352. The Court of Appeals affirmed, construing § 810 (a) narrowly to permit complaints only by persons who are the objects of discriminatory housing practices. 446 F. 2d 1158. The case is here on a petition for a writ of certiorari which we granted, 407 U. S. —. We reverse the judgment below.

The definition of “persons aggrieved” contained in § 810 (a)* is in terms broad, as it is defined as “any person who claims to have been injured by a discriminatory housing practice.”

respondent named in the complaint, to enforce the rights granted or protected by this subchapter, insofar as such rights relate to the subject of the complaint.

* Less than 1% of the tenants in this apartment complex are Black.

* Note 3, *supra*.

The Act gives the Secretary of HUD power to receive and investigate complaints regarding discriminatory housing practices. The Secretary, however, must defer to state agencies that can provide relief against the named practice. If the state agency does not act, the Secretary may seek to resolve the controversy by conference, conciliation, or persuasion. If these attempts fail, the complainant may proceed to court pursuant to § 810 (d).⁷ Moreover, these rights may be enforced "by civil actions in appropriate United States district courts without regard to the amount in controversy," if brought within 180 days "after the alleged discriminatory housing practice occurred." § 812 (a). In addition, § 813 gives the Attorney General authority to bring a civil action in any appropriate United States district court when he has reasonable cause to believe "that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted" by the Act.

It is apparent, as the Solicitor General says, that complaints by private persons are the primary method of obtaining compliance with the Act. *Hackett v McGuire Bros. Inc.*, 445 F. 2d 442, which dealt with the phrase that allowed a suit to be started "by the person claiming to be aggrieved" under the Civil Rights Act of 1964, 42 U. S. C. § 2000d-5 (e), concluded that the words used showed "a congressional intention to define standing as broadly as is permitted by Article III of the Constitution." *Id.*, at 446. With respect to suits brought under the 1968 Act,⁸ we reach the same conclusion, insofar as tenants of the

⁷ Note 4, *supra*.

⁸ We find it unnecessary to reach the question of standing to sue under 42 U. S. C. § 1982 which is the basis of the third cause of action alleged in the petition but based on the same allegations as those made under the Civil Rights Act of 1968.

same housing unit that is charged with discrimination are concerned.

The language of the Act is broad and inclusive. Individual injury or injury in fact to petitioners, the ingredient found missing in *Sierra Club v. Morton*, 407 U. S. —, is alleged here. What the proof may be is one thing; the alleged injury to existing tenants by exclusion of minority persons from the apartment complex is the loss of important benefits from interracial associations.

The legislative history of the Act is not too helpful. The key section now before us, i. e., § 810, was derived from an amendment offered by Senator Mondale and incorporated in the bill offered by Senator Dirksen.⁹ While members of minority groups were damaged the most from discrimination in housing practices, the proponents of the legislation emphasized that those who were not the direct objects of discrimination had an interest in ensuring fair housing, as they too suffered.¹⁰

The Assistant Regional Administrator for HUD wrote petitioners' counsel on November 5, 1970, that "it is the determination of this office that the complainants are aggrieved persons and as such are within the jurisdiction" of the Act. We are told that that is the consistent administrative construction of the Act. Such construction is entitled to great weight. *Udall v. Tollman*, 380 U. S. 1, 16; *Griggs v. Duke Power Co.*, 401 U. S. 424, 433-434.

⁹ The Dirksen substitute, 114 Cong. Rec. 4570-4573 retained the present language of § 810 (a) which Senator Mondale had previously introduced, 114 Cong. Rec. 2270, and it was in the bill passed by the Senate, 114 Cong. 5992, and which the House subsequently passed, 114 Cong. Rec. 9621.

The aggrieved person provision that was in Senator Mondale's bill and carried into the Dirksen bill can be found at 114 Cong. 2271 (511 (a) of the Mondale bill).

¹⁰ See hearings before the Subcommittee on Housing and Urban Affairs of the Senate Committee on Banking and Currency on S. 1358, S. 2114, and S. 2280, 90th Cong., 1st Sess. (1967).

The design of the Act confirms this construction. HUD has no power of enforcement. So far as federal agencies are concerned only the Attorney General may sue; yet, as noted, he may sue only to correct "patterns and practices" of housing discrimination. That phrase "patterns and practices" creates some limiting factors in his authority which we need not stop to analyze. For as the Solicitor General points out, most of the fair housing litigation conducted by the Attorney General is handled by the Housing Section of the Civil Rights division which has less than two dozen lawyers. Since HUD has no enforcement powers and since the enormity of the task of assuring fair housing makes the role of the Attorney General in the matter minimal, the main generating force must be private suits in which, the Solicitor General says, the complainants act not only on their own behalf but also "as private attorney general in vindicating a policy that Congress considered to be of the highest priority." The role of "private attorneys general" is not uncommon in modern legislative programs. See *Newman v. Piggie Park Enterprises*, 390 U. S. 400, 402; *Allen v. State Board*, 393 U. S. 544, 556; *Perkins v. Mathews*, 400 U. S. 379, 396; *J. I. Case Co. v. Borak*, 377 U. S. 426, 432. It serves an important role in this part of the Civil Rights Act of 1968 in protecting not only those against whom a discrimination is directed but also those whose complaint is that the manner of managing a housing project affects "the very quality of their daily lives." *Shannon v. Dept. of Housing & Urban Dev.*, 436 F. 2d 89, 818.

The dispute tendered by this complaint is presented in an adversary context. *Flast v. Cohen*, 392 U. S. 93, 101. Injury is alleged with particularity, so there is not present the abstract question raising problems under Art. III of the Constitution. The person on the landlord's blacklist is not the only victim of discriminatory housing

practices; it is, as Senator Javits said in supporting the bill, "the whole community," 114 Cong. Rec. 2706, and as Senator Mondale who drafted § 810 (a) said, the reach of the proposed law was to replace the ghettos "by truly integrated and balanced living quarters." 114 Cong. Rec. 3472.

—We can give vitality to § 810 (a) only by a generous construction which gives standing to sue to all in the same housing unit who are injured by racial discrimination in the management of those facilities under the auspices of HUD.

We reverse and remand the case to the District Court, leaving untouched all other questions, including the suggestion that the case against Metropolitan Life Insurance Co. has become moot.

Reversed.

Senator Javits said in supporting the bill, "the whole community," the 1940s and 1950s, and the 1960s, the 1970s, and the 1980s, the 1990s, the 2000s, the 2010s, the 2020s, the 2030s, the 2040s, the 2050s, the 2060s, the 2070s, the 2080s, the 2090s, the 2100s, the 2110s, the 2120s, the 2130s, the 2140s, the 2150s, the 2160s, the 2170s, the 2180s, the 2190s, the 2200s, the 2210s, the 2220s, the 2230s, the 2240s, the 2250s, the 2260s, the 2270s, the 2280s, the 2290s, the 2300s, the 2310s, the 2320s, the 2330s, the 2340s, the 2350s, the 2360s, the 2370s, the 2380s, the 2390s, the 2400s, the 2410s, the 2420s, the 2430s, the 2440s, the 2450s, the 2460s, the 2470s, the 2480s, the 2490s, the 2500s, the 2510s, the 2520s, the 2530s, the 2540s, the 2550s, the 2560s, the 2570s, the 2580s, the 2590s, the 2600s, the 2610s, the 2620s, the 2630s, the 2640s, the 2650s, the 2660s, the 2670s, the 2680s, the 2690s, the 2700s, the 2710s, the 2720s, the 2730s, the 2740s, the 2750s, the 2760s, the 2770s, 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It is noted and remains the case to the District Court that the case against Metropolitan Life Insurance Company was not a case against the company, but a case against the company's agents, and that the case against the company's agents was not a case against the company, but a case against the company's agents.

SUPREME COURT OF THE UNITED STATES

No. 71-708

Paul J. Trafficante et al.,
Petitioners,
v.
Metropolitan Life Insurance Company et al.

On Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit.

[December 7, 1972]

MR. JUSTICE WHITE, with whom MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL join, concurring.

Absent the Civil Rights Act of 1968, I would have great difficulty in concluding that petitioners' complaint in this case presented a case or controversy within the jurisdiction of the District Court under Art. III of the Constitution. But with that statute purporting to give all those who are authorized to complain to the agency the right also to sue in court, I would sustain the statute insofar as it extends standing to those in the position of the petitioners in this case. Cf. *Katzenbach v. Morgan*, 384 U. S. 641, 648-649 (1966); *Oregon v. Mitchell*, 400 U. S. 112, 240, 248-249 (1970). Consequently, I join the Court's opinion and judgment.